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# ***Public Utilities Commission of the State of California***

## ***Results of Public Agenda 3133***

***Meeting Held on Thursday, May 6, 2004 10:00 a.m.***

***San Francisco, California***

### **Commissioners**

**Michael R. Peevey, President**

**Geoffrey F. Brown**

**Susan P. Kennedy**

**Loretta M. Lynch**

**Carl W. Wood**

*Website: <http://www.cpuc.ca.gov>*

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### **Scheduled Commission Meetings**

**505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <b><i>Open to the Public</i></b>
Monday, May 24, 2004 (San Francisco)	Thursday, May 27, 2004 (San Francisco)
Monday, June 07, 2004 (San Francisco)	Wednesday, June 09, 2004 (San Francisco)
Friday, July 02, 2004 (San Francisco)	Thursday, July 08, 2004 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor  
(415) 703-2074 E-mail: [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)



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## PUBLIC COMMENT

**The following items are not subject to public comment:**

- All items on the closed session agenda; these are HEX and EX items.
- 

### Public Comment:

Re 44:

Ed Gallo, Escondido, CA

Eduardo Landeros, San Diego County Hispanic Chamber of Commerce, San Diego, CA

Fernando Landa, San Diego Regional Economic Development, San Diego, CA

Jerry Butkiewicz, San Diego Imperial Counties Labor Council AFL-CIO, San Diego, CA

Mitch Mitchell, San Diego Chamber of Commerce, San Diego, CA

Re 58:

Alexis Krostue, FLOW, Felton, CA

Ann Lopez, FLOW, Felton, CA

Connie Barr, Felton, CA

Frank Adamson, FLOW, Felton, CA

Mark Stone, County of Santa Cruz Supervisor, Scotts Valley, CA

Robert F. Barnett, Felton, CA

Susan Merritt, FLOW, Felton, CA

Susan Renison, FLOW, Felton, CA

## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### Orders and Resolutions

**1**

**A02-05-022 - Pacific Gas and Electric Company (PG&E).**

[3342]

This decision exempts PG&E from filing a test year 2005 cost of capital application, but gives a deadline of no later than June 15, 2004 for PG&E to file its post-bankruptcy cost of capital application. This proceeding is closed.

(Comr Brown, Comr Peevey - ALJ Galvin)

Agenda 3132, Item 9 4/22/2004 (Lynch)

**Outcome Signed**

D04-05-003

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**2**

[3393]

**Res ALJ 176-3133**

Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**3**

[3359]

**A03-08-016 - WorldCom, Inc.**

For exemption from the requirements of Sections 851 and 854 of the Public Utilities Code with respect to its bankruptcy reorganizations. This decision denies the request of Greenlining Institute and the Latino Issues Forum (Greenlining) for an award of \$56,278.72 in intervenor compensation in connection with D03-11-015 on the ground that Greenlining did not timely file its notice of intent to seek intervenor compensation and did not make a substantial contribution to the Commission's decision. This proceeding is closed.

(Comr Peevey - ALJ Thomas)

Agenda 3132, Item 10 4/22/2004 (Lynch)

**Outcome Signed**

D04-05-004

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**4**

[3390]

**A03-11-011 - In Touch Communications, Inc. (In Touch) and Inflexion California Communications Corp. (Inflexion).**

A03-11-013 - Related matters. This decision denies Inflexion's applications, (1) for approval of the acquisition of the assets of In Touch, pursuant to Pub. Util. Code § 851, and (2) for a certificate of public convenience and necessity to provide resold and limited facilities based competitive local exchange service and resold and facilities-based interexchange service. These proceedings are closed.

(Comr Kennedy - ALJ Thomas)

**Outcome Held (5/27/04, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**5**

[3412]

**Res T-16830**

This resolution revises and consolidates reporting requirements for all telecommunications carriers eligible for federal universal high-cost support effective September 15, 2004.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**6**

[3415]

**Res T-16824 - WWC License LLC. (Western Wireless).**

This resolution grants eligible telecommunications carrier status to Western Wireless in Imperial County as of the date of this resolution pursuant to the Federal Communications Commission's Report and Order (FCC 97-157).

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**7**

[3420]

**R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into competition for local exchange service.**

I95-04-044 - Related matters. This decision denies the Petition to Modify D03-11-022, as filed by the "Joint Wireless Carriers" to shorten the schedule for implementing the 909 area code split. The existing implementation schedule shall remain in effect.

(Comr Lynch - ALJ Pulsifer)

**Outcome Signed**

D04-05-005

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**8**

[3426]

**A98-11-012 - Lodi Gas Storage, L.L.C. (LGS).**

This decision grants LGS's petition for modification of D00-05-048 insofar as it changes the amount of the surety bond condition of its certificate of public convenience and necessity from \$20 million to \$10 million, as adjusted for inflation as of May 18, 2000, the date of issuance of D00-05-048. However, the decision denies LGS' request to eliminate the surety bond condition in its entirety. This proceeding is closed.

(Comr Brown - ALJ Econome)

**Outcome Held (5/27/04, Consent Agenda. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**9**

[3433]

**C03-05-023 - Raw Bandwidth Communications, Inc. vs. SBC California, Inc. and SBC Advanced Solutions, Inc.**

This decision finds SBC California, Inc. and SBC Advanced Solutions, Inc. do not unreasonably discriminate or otherwise violate applicable law by connecting SBC Information Services (SBCIS) customers who dial 611 for Digital Subscriber Line repair services to SBCIS but telling customers of an unaffiliated Internet Service Provider (ISP) to hang up and call their ISP. This proceeding is closed.

(Comr Brown - ALJ Grau)

**Outcome Signed**

D04-05-006

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**10**

[3453]

**(ECP) C02-10-043 - John A. Davis (Complainant) vs. AT&T Communications of California, Inc. (AT&T).**

Complainant alleges that AT&T failed to give him notice that: (1) it changed the time for minimum billing increments from 30 to 60 seconds on November 15, 2001; and, (2) implemented a minimum usage fee effective January 1, 2002. AT&T denies the allegation. The record shows that Complainant was not provided with reasonable notice and this decision finds for Complainant. The amount of \$40.55 held by the Commission shall be returned to Complainant and this proceeding is closed.

(Comr Brown - ALJ Patrick)

**Outcome Signed**

D04-05-007

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**11**

[3455]

**Res T-16834**

This resolution revokes, at the request of the companies, certificates of public convenience and necessity of the following 16 telecommunications carriers: RSL COM USA, Inc. (CPCN# (#) 5376); T-NETIX, Inc. (#5484); I-Link Communications, Inc. (#5724); Wholesale Telecom, Inc. (#6056); Big Planet (#6061); Samsung Data Systems America, Inc. (#6070); Glyphics Communications, Inc. (#6137); Ideas for Business (#6201); Adelphia Business Solutions Operations (#6248); Touch America, Inc. (#6370); Starfone Corp. (#6459); Maxtel USA, Inc. (#6507); El Paso Networks, LLC (#6519); Lightwave Communications, Inc. (#6553); Verizon Advanced Data, Inc. (#6565); and El Paso Global Networks Company (#6662).

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**12**

[3461]

**A03-12-041 - Think 12 Corporation, dba Hello Depot (Applicant).**

This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange telecommunications services. This proceeding is closed. (Comr Kennedy - ALJ O'Donnell)

**Outcome Signed**

D04-05-008

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**13**

[3464]

**Res W-4468 - Great Oaks Water Company (GOWC).**

This resolution authorizes GOWC a temporary surcharge to recover undercollections in its purchased power and pump tax balancing-type memorandum accounts, producing an annual increase in revenue of \$935,337 or 9.06%. (Advice Letter 161-W, filed March 16, 2004)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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- 14**  
[3465]      **Res W-4469 - California Water Service Company (CWSC) Livermore District.**  
This resolution authorizes CWSC, Livermore District an offset rate increase producing additional annual revenues of \$176,700 or 1.7% for increases in the cost of purchased water. (Advice Letter 1615, filed February 4, 2004)  
**Outcome    Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 15**  
[3468]      **Res W-4470 - Del Oro Water Company (DOWC), Lime Saddle District.**  
This resolution authorizes DOWC, Lime Saddle District a surcharge of \$2.17 per month per customer for five years producing an annual increase in revenue of \$11,889 for a total of \$59,445 to recover legal expenses. (Advice Letter (AL) 126, filed December 24, 2003, and Supplemental AL 126-A, filed April 8, 2004)  
**Outcome    Held (5/27/04, Consent Agenda.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 16**  
[3469]      **Res W-4471 - Stirling Bluffs Corporation (Stirling).**  
This resolution authorizes Stirling a general rate increase in rates producing \$1,425 or 1.3% in additional annual revenue.  
**Outcome    Held (6/9/04, Regular Agenda. For alternate.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 17**  
[3470]      **A04-01-013 - Kahasy T. Haymanot, dba Take Me Home Express (Applicant).**  
This decision authorizes Applicant to operate as a passenger stage corporation between points in San Francisco, Alameda, Contra Costa, San Mateo, and Marin Counties, on the one hand; and San Francisco, Oakland, and San Jose International Airports, on the other hand; and to establish a zone of rate freedom. This proceeding is closed.  
(Exam Clark)  
**Outcome    Signed**  
D04-05-009  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
-

- 18**  
[3472]      **A02-03-047 - Southern California Gas Company and San Diego Gas and Electric Company.**  
For authority to continue funding of LEV Programs. A02-03-048, A02-03-049 - Related matters.  
This decision grants \$61,787.88 to the Environmental Coalition as intervenor compensation for its contributions to D03-10-086 regarding utility low-emission vehicle programs.  
(Comr Wood - ALJ Thomas)  
**Outcome Signed**  
D04-05-010  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 19**  
[3476]      **Res T-16828 - Volcano Telephone Company (Volcano).**  
This resolution authorizes Volcano to establish a New Promotional Campaigns schedule. (Advice Letter (AL) 305, filed December 12, 2003 and AL 305A, filed January 23, 2004)  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 20**  
[3477]      **Res T-16838 - SBC California (SBC).**  
This resolution approves an Interconnection Agreement between SBC and Choice Telecom, LLC, in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 24653, filed February 24, 2004)  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 21**  
[3478]      **Res T-16836 - SBC California (SBC).**  
This resolution approves an Interconnection Agreement between SBC and Cat Communications International, Inc., in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 24619, filed February 13, 2004)  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)



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- 22**  
[3479]      **Res T-16835 - Citizens Telecommunications Company of California, Inc. (CTC-California).**  
This resolution approves an Interconnection Agreement between CTC-California and Sprint Communications Company, L.P., in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 827, filed February 13, 2004)  
**Outcome    Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 23**  
[3480]      **Res T-16839 - Verizon California, Inc. (Verizon).**  
This resolution approves an Interconnection Agreement between Verizon and Telecom Consultants, Inc., in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 10772, filed February 20, 2004)  
**Outcome    Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 24**  
[3481]      **A04-03-004 - Charter Fiberlink CA-CCO, LLC (Applicant).**  
This decision grants Applicant a certificate of public convenience and necessity to provide resold and limited facilities-based local exchange telecommunications services within California. This proceeding is closed.  
(Comr Kennedy - ALJ Galvin)  
**Outcome    Signed**  
D04-05-011  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 25**  
[3483]      **Res T-16837 - SBC California (SBC).**  
This resolution approves an Interconnection Agreement between SBC and Think 12 Corporation, dba Hello Depot, in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 24631, filed February 20, 2004)  
**Outcome    Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
-

**26**

[3486]

**Res W-4472 - Peerless Water Company (PWC).**

This resolution authorizes PWC a general rate increase producing additional annual revenue of \$72,867 or 8.5% in 2003.

**Outcome Held (5/27/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**27**

[3489]

**A04-02-017 - Pacific Gas and Electric Company (PG&E).**

This decision addresses the fire insurance issue regarding the Gerber Compressor Station. Since no further insurance proceeds are available, this issue and this application are closed.

(Comr Lynch - ALJ Wong)

**Outcome Signed**

D04-05-012

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**28**

[3492]

**A04-03-006 - Charter Fiberlink CA-CCVII, LLC (Applicant).**

This decision grants Applicant a certificate of public convenience and necessity to provide resold and limited facilities-based local exchange telecommunications services within California. This proceeding is closed.

(Comr Kennedy - ALJ Galvin)

**Outcome Signed**

D04-05-013

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**29**

[3494]

**Res W-4473 - Weimar Water Company (WWC).**

This resolution authorizes WWC a general rate increase producing additional annual revenues of \$143,541 or 63.0% in 2004.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**30**

[3495]

**A03-12-018 - Fred Fahlen and Gerry LaBudde.**

This decision authorizes Fred Fahlen to (1) withdraw from providing water utility service to Weimar Water Company customers, and (2) to sell and transfer Weimar Water Company to Gerry LaBudde. This proceeding is closed.

(Exam Jackson)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**31**

[3498]

**(ECP) C03-09-017 - Maclyn Erickson vs. Southern California Edison Company (SCE).**

Maclyn Erickson alleges that SCE overcharged her because her electric bills returned to normal after her meter was replaced. This decision requires SCE to refund \$1,400 in disputed billing charges. The complaint is granted and this proceeding is closed.

(Comr Brown - ALJ Patrick)

**Outcome Signed**

D04-05-014

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**32**

[3499]

**(ECP) C04-01-015 - Desserts on Us, Inc. (Complainant) vs. Pacific Gas and Electric Company (PG&E).**

Complainant requests that PG&E deduct \$1,500 from its deficiency billing pursuant to its Line Extension Contract, and pay \$2,000 in damages. This decision delays the deficiency billing calculation by one year and denies Complainant's request for the \$1,500 deduction and damages of \$2,000. This proceeding is closed.

(Comr Brown - ALJ Patrick)

**Outcome Signed**

D04-05-015

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**33**

[3509]

**A03-12-032 - Volo Communications of California, Inc. (Applicant).**

This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange telecommunications services. This proceeding is closed.  
(Comr Kennedy - ALJ O'Donnell)

**Outcome Signed**

D04-05-016

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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## Regular Agenda

### Energy Orders

#### 34 A03-05-012 - Pacific Gas and Electric Company (PG&E).

[2910]

PG&E seeks Commission approval pursuant to Pub. Util. Code §851 of certain licenses and leases of PG&E property already in effect (the “agreements” or “transactions”). In total PG&E seeks approval of 256 transactions. Most of these agreements were entered into several years ago. Each permits various uses of PG&E property by third parties. The transactions did not have prior approval of the Commission pursuant to Pub. Util. Code §851. PG&E states that it discovered many of these agreements in various branch office files while conducting an extensive search in the PG&E bankruptcy proceeding. Because the 256 transactions may implicate environmental review or may not meet the criteria for General Order (GO) 69-C transactions, PG&E states that it decided it would be prudent to seek formal approval of the transactions under Section 851. In addition, PG&E asserts that Commission environmental review under the California Environmental Quality Act (CEQA) is unnecessary because the majority of the transactions fit within CEQA exemptions, nine received adequate local CEQA review, and six pre-date CEQA and are thus not subject to its requirements. This decision grants Section 851 approval for 255 of the transactions on a prospective basis. The Commission notes one of the transactions fits within recent Commission decisions finding agreements allowing floating boat docks as appropriate under GO 69-C. Therefore, Commission's approval here is not required. The decision declines to impose a penalty for failure to obtain prior approval of the transactions. With respect to CEQA, the Commission notes that because all of the agreements are several years old, any activity which may have warranted Commission's environmental review has long since occurred. Accordingly, Commission's CEQA review at this time has little value for practical purposes. Nevertheless, the Commission will address the CEQA issues raised by PG&E and determine where possible, the applicability of the claimed exemptions. This proceeding is closed. (Comr Kennedy - ALJ Walker)

Agenda 3124, Item 42 12/4/2003 (Kennedy);

Agenda 3127, Item 18 1/22/2004 (Wood);

Agenda 3128, Item 30 2/11/2004 (Wood);

Agenda 3130, Item 36 3/16/2004 (Lynch);

Agenda 3131, Item 24 4/1/2004 (Lynch)

#### **Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**34a**

[3306]

**ALTERNATE TO ITEM 2910**

This alternate differs from the Proposed Decision in the manner in which CEQA concerns are resolved and in its retroactive treatment of the leases. The Proposed Decision approved the leases on a going-forward basis, while declaring them to be void for periods prior to the approval. In response to comments, the ALJ reversed that position, proposing that the Commission grant a retroactive exemption for the leases, pursuant to Section 853. The alternate adheres to the ALJ's original position on this issue.

(Comr Wood)

Agenda 3130, Item 36a 3/16/2004 (Lynch);

Agenda 3131, Item 24a 4/1/2004 (Lynch)

**Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**Legislative Matters**

- 65**  
[3368] **AB 1169 (Bermudez)**  
Public utilities: telephone corporations; disposition of property.  
Agenda 3131, Item 52 4/1/2004 (Staff);  
Agenda 3132, Item 62 4/22/2004 (Kennedy)  
**Outcome Held (5/27/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 66**  
[3369] **AB 1981 (Wolk)**  
Telecommunications: deaf and disabled telecommunications program.  
Agenda 3131, Item 53 4/1/2004 (Staff);  
Agenda 3132, Item 63 4/22/2004 (Staff)  
**Outcome Approved (Legislative Subcommittee Recommendation: Support bill if amended.)**  
)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 67**  
[3370] **AB 2006 (Nunez)**  
Electrical restructuring: Reliable Electric Service Act of 2004.  
Agenda 3131, Item 54 4/1/2004 (Staff);  
Agenda 3132, Item 64 4/22/2004 (Staff)  
**Outcome Held (5/27/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 68**  
[3371] **AB 2283 (Chu)**  
State community social services telephone number system.  
Agenda 3131, Item 55 4/1/2004 (Staff);  
Agenda 3132, Item 65 4/22/2004 (Staff)  
**Outcome Approved (Legislative Subcommittee Recommendation: Oppose bill unless amended.)**  
Yes: (Brown, Kennedy, Peevey)  
No: (Lynch)  
Abstain: (Wood)  
Absent: (none)

- 69**  
[3372]      **AB 2419 (Campbell)**  
Public utilities: judicial review.  
Agenda 3131, Item 56 4/1/2004;  
Agenda 3132, Item 66 4/22/2004 (Staff)  
**Outcome Held (5/27/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 70**  
[3373]      **AB 2430 (Wiggins)**  
Commercial air carriers: hot air balloons.  
Agenda 3131, Item 57 4/1/2004 (Staff);  
Agenda 3132, Item 67 4/22/2004 (Kennedy)  
**Outcome Held (5/27/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 71**  
[3375]      **AB 2505 (Maldonado)**  
Public utilities: stocks and security transactions.  
Agenda 3131, Item 59 4/1/2004 (Staff);  
Agenda 3132, Item 69 4/22/2004 (Kennedy)  
**Outcome Held (5/27/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 72**  
[3376]      **AB 2768 (Richman)**  
Telecommunications: regulatory streamlining.  
Agenda 3131, Item 60 4/1/2004 (Staff);  
Agenda 3132, Item 70 4/22/2004 (Kennedy)  
**Outcome Held (5/27/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)



**73**

[3377]

**AB 2803 (Jerome Horton)**

Public Utilities Commission: Office of Economic Development.

Agenda 3131, Item 61 4/1/2004;

Agenda 3132, Item 71 4/22/2004 (Kennedy)

**Outcome Approved (Legislative Subcommittee Recommendation: Support bill if amended.)**

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

**74**

[3379]

**SB 1201 (Torlakson)**

Electrical restructuring: BART.

Agenda 3131, Item 63 4/1/2004 (Staff);

Agenda 3132, Item 73 4/22/2004 (Staff)

**Outcome Held (5/27/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**75**

[3380]

**SB 1488 (Bowen)**

Public Utilities Commission: public information.

Agenda 3131, Item 64 4/1/2004 (Staff);

Agenda 3132, Item 74 4/22/2004 (Staff)

**Outcome Held (5/27/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**76**

[3500]

**AB 2499 (Horton)**

Energy Commission: publicly owned electric utilities: long-term resource plans.

**Outcome Defeated (Defeated Legislative Subcommittee Recommendation to oppose bill unless amended. Approved Comr. Brown's recommendation to send bill to interim study; Comr. Kennedy and Pres. Peevey dissented.)**

Yes: (Kennedy, Peevey)

No: (Brown, Lynch, Wood)

Abstain: (none)

Absent: (none)

- 77**                    **AB 2577 (La Suer)**  
[3501]                Telecommunications.  
                      **Outcome Held (5/27/04.)**  
                      Yes: (none)  
                      No: (none)  
                      Abstain: (none)  
                      Absent: (none)
- 78**                    **AB 2591 (Leno)**  
[3502]                Charter-party carriers: limousines.  
                      **Outcome Held (5/27/04.)**  
                      Yes: (none)  
                      No: (none)  
                      Abstain: (none)  
                      Absent: (none)
- 79**                    **AB 2593 (Calderon) .**  
[3503]                Self-generation incentive program.  
                      **Outcome Held (5/27/04.)**  
                      Yes: (none)  
                      No: (none)  
                      Abstain: (none)  
                      Absent: (none)
- 80**                    **AB 2652 (Bates)**  
[3504]                Electricity: Repowering powerplants.  
                      **Outcome Held (5/27/04.)**  
                      Yes: (none)  
                      No: (none)  
                      Abstain: (none)  
                      Absent: (none)
- 81**                    **SB 1276 (Bowen)**  
[3505]                Telecommunications: telephone service rates.  
                      **Outcome Approved (Legislative Subcommittee Recommendation: Support bill.)**  
                      Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
                      No: (none)  
                      Abstain: (none)  
                      Absent: (none)

**82**

[3506]

**SB 1624 (Bowen)**

Public Utilities Commission: Office of Ratepayer Advocates.

**Outcome Held (5/27/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the*

### Non-Federal

**84**

[3347]

#### **A01-10-011 - Conference with Legal Counsel - Application for Rehearing**

Order disposing of applications for rehearing of D03-12-061 filed by Duke Energy North America and Duke Trading and Marketing (Duke) and the Northern California Generation Coalition (NCGC). D03-12-061 resolves the gas market structure, rates, and terms and conditions of service for Pacific Gas and Electric Company's (PG&E's) natural gas transmission and storage system for 2004. Duke and NCGC claim that the decision errs in approving the establishment of a backbone level rate for PG&E.

Agenda 3131, Item 68 4/1/2004 (Staff)

#### **Outcome Held (5/27/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**85**

[3467]

#### **R01-09-001 - Conference with Legal Counsel - Application for Rehearing**

Disposition of Application for Rehearing of D03-10-088, filed by ORA and TURN. On October 30, 2003, the Commission issued an interim opinion regarding NRF Phase 2B Service Quality issues in regard to Pacific and Verizon. In this decision, the Commission found that neither Pacific's service quality nor Verizon's service quality had deteriorated under NRF.

#### **Outcome Held (5/27/04. Further deliberation.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**86**

[3508]

**A04-01-004 et al. - Conference with Legal Counsel - Application for Rehearing**

Application for Rehearing and related Motion by Southern California Edison (SCE) to file certain confidential materials under seal.

Disposition of Application of Rehearing of Resolution E-3814, filed by The Utility Reform Network (TURN.) In this Resolution, the Commission approved SCE's Advice Letter Filing 1680-E, which sought approval of the TrueSolar PPA and a new 5 MW central station solar photovoltaic facility to be constructed and operated by TrueSolar. Also disposes of related motion filed by SCE seeking confidential treatment of portions of the Response of SCE to TURN's application for rehearing.

**Outcome Signed**

D04-05-024

Yes: (Brown, Kennedy, Lynch, Peevey)

No: (Wood)

Abstain: (none)

Absent: (none)

## Regular Agenda

### Energy Orders

**35 (Rev.)**      **R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code §761.3 enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.**  
[2936]

This decision involves Commission implementation and enforcement of Logbook Standards for thermal powerplants adopted by the California Electricity Generation Facilities Standards Committee pursuant to Pub. Util. Code §761.3. Within 30 days of the date this order is mailed (or 30 days of initial operation of a new facility), an authorized representative of each covered electricity generation facility shall file a verified statement with the Director of Consumer Protection and Safety Division regarding compliance with these orders. Covered facilities are 50 megawatts and larger, subject to several exceptions. Within 12 months, respondents shall file and serve an application that addresses implementation and enforcement of a common logbook format. The Executive Director shall file a notice of exemption regarding the California Environmental Quality Act.

(Comr Wood - ALJ Mattson)

Agenda 3124, Item 12 12/4/2003 (Peevey);

Agenda 3127, Item 19 1/22/2004 (Peevey);

Agenda 3131, Item 25 4/1/2004 (Kennedy)

05/04/2004 - This revision was not shown on the Agenda mailed to the public.

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**35a**      **ALTERNATE TO ITEM 2936**

[3484]

Like the Draft Decision, this alternate also proposes implementation and enforcement of the Logbook Standards for Thermal Powerplants adopted by the California Electricity Generation Facilities Standards Committee, although the analysis of jurisdictional issues in the alternate differs from that in the Draft Decision. The alternate also states that the Commission shall forward the standards adopted in this Decision, and in all related current and future Commission decisions that implement generator maintenance and operation standards, to the ISO with a request that the ISO submit these adopted standards to FERC for approval as amendments to the ISO's tariff.

(Comr Peevey)

**Outcome Signed**

D04-05-017

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**36**

[3268]

**A02-05-004 - Southern California Edison Company (SCE).**

I02-06-002 - Related matters. SCE's test year revenue requirement is established, a late payment charge and adjustments to other service charges are approved, a post-test year ratemaking mechanism is approved, 1997-98 capital additions are approved, and proposals for performance incentives are denied.

(Comr Wood - ALJ Wetzell)

Agenda 3130, Item 41 3/16/2004 (Wood);

Agenda 3131, Item 29 4/1/2004 (Kennedy);

Agenda 3132, Item 37 4/22/2004 (Kennedy)

**Outcome Held (5/27/04. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**36a**

[3269]

**ALTERNATE TO ITEM 3268**

This alternate differs from the Proposed Decision in 3 ways, none of which affect the revenue requirement:

1. It modifies Section 5.5 Service Guarantees to adopt ORA's proposed 8-part service standard.
2. It modifies Section 6.2.7 Employee Compensation Issues to point out weaknesses in the current Total Compensation Study methodology, order SCE to develop a new study for the next GRC, and adopt Greenlining's proposal to require SCE to annually report to the Commission on total compensation to its ten most highly-compensated employees.
3. It modifies Section 13.2 The Case for Performance Incentives. CCUE had proposed benchmarks and incentives. SCE and CCUE then reached a settlement adopting modified benchmarks and incentives. The PD rejects both, stating that incentives are inconsistent with Cost of Service ratemaking. The alternate adopts CCUE's proposal.

There are changed Findings, Conclusions and Ordering Paragraphs to match these text changes. In all other respects, the drafts are the same.

(Comr Wood)

Agenda 3130, Item 41a 3/16/2004 (Wood);

Agenda 3131, Item 29a 4/1/2004 (Kennedy);

Agenda 3132, Item 37a 4/22/2004 (Kennedy)

**Outcome Held (5/27/04. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**36b (Rev.)**

[3516]

**ALTERNATE TO ITEM 3268**

I02-06-002 - Related matters. This Alternate Decision of Commissioner Kennedy makes changes to the Proposed Decision of ALJ Wetzell and does not incorporate any modifications from Commissioner Wood's Alternate Decision. Additionally, the changes made to ALJ Wetzell's PD represent an increase in SCE's current rate base of \$129 million. Specifically, this Alternate Decision would change the Proposed Decision by:

Modifying Section 4.5 to increase Transmission and Distribution Operation and Maintenance Expenses by \$1.9 million.

Modifying Section 5.2.3.4 to fully fund the Economic and Business Development Program - \$2.514 million.

Modifying Section 5.4.2 to grant Edison's request to recover \$10.8 million associated with Real Time Energy Metering;

Modifying Section 6.5.2 to increase Information Technology Expenses by \$9.969 million.

Modifying Section 6.5.3 to increase Information Technology Capital Expenditures by \$6 million.

Modifying Section 8.5 to reduce TURN's proposal to treat customer deposits as an offset to rate base to the 1996 - 2001 five-year average of \$80 million rather than the PD's use of a 2000 - 2001, 13 month average of \$117 million.

Modifying Section 9.2 to approve SCE's request for an increase in depreciation rates for certain accounts.

(Comr Kennedy)

04/29/2004 - This item was not listed on the agenda distributed to the public.

**Outcome Held (5/27/04. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**37**

[3291]

**R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code §761.3 enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.**

This decision adopts a General Order to implement and enforce standards adopted pursuant to Pub. Util. Code § 761.3.

(Comr Wood - ALJ Thorson)

Agenda 3131, Item 31 4/1/2004 (Peevey)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



**37a**

[3485]

**ALTERNATE TO ITEM 3291**

Like the Draft Decision, this alternate also proposes adoption of a General Order providing rules for the implementation and enforcement implementation and enforcement of the various standards adopted by the California Electricity Generation Facilities Standards Committee (Committee), and implements the Maintenance Standards previously adopted by the Committee. However, the alternate refers the Committee-adopted General Duty Standards back to the Committee with a request that the Committee consider revising the scope of said standards. The alternate also states that the Commission shall forward the standards adopted in this Decision, and in all related current and future Commission decisions that implement generator maintenance and operation standards, to the ISO with a request that the ISO submit these adopted standards to FERC for approval as amendments to the ISO's tariff.

(Comr Peevey)

**Outcome Signed**

D04-05-018

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**38**

[3313]

**I00-11-001 - Order Instituting Investigation into implementation of Assembly Bill 970 regarding the identification of electric transmission and distribution constraints, actions to resolve those constraints, and related matters affecting the reliability of electric supply.**

This decision provides that a collaborative study group, coordinated by the California Independent System Operator and Commission staff, develop a transmission development plan for the Tehachapi area based on the magnitude of the identified wind resource.

(Comr Lynch - ALJ TerKeurst)

Agenda 3131, Item 32 4/1/2004 (Staff);

Agenda 3132, Item 39 4/22/2004 (Staff)

**Outcome Held (5/27/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**39**

[3326]

**A03-10-044 - Pacific Gas and Electric Company (PG&E).**

The proposed sale of PG&E's Kern Facility to North American Power Group is barred by Public Utilities Code Section 377. The application is denied. This proceeding is closed.

(Comr Peevey - ALJ Allen)

Agenda 3132, Item 40 4/22/2004 (Kennedy)

**Outcome Signed**

D04-05-019

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**40**

[3366]

**A99-03-039 - Pacific Gas and Electric Company (PG&E).**

This decision concludes the reasonableness review of PG&E's Safety and Reliability Enhancement Funds Balancing Account. It allows PG&E to recover a portion of the charges as provided by Pub. Util. Code §368(e). This proceeding is closed.

(Comr Kennedy - ALJ Long)

Agenda 3132, Item 42 4/22/2004 (Kennedy)

**Outcome Held (7/8/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**41**

[3425]

**A00-11-038 - Southern California Edison Company (SCE).**

For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 - Related matters. This decision denies the request for Petition to Modify D04-01-028 filed by SCE.

(Comr Brown, Comr Lynch - ALJ Allen)

**Outcome Held (5/27/04. Possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**41a**

[3428]

**ALTERNATE TO ITEM 3425**

A00-11-056, A00-10-028 - Related matters. This alternate decision adopts SCE's request, and makes the allocation methodology for the bond charge revenue requirement consistent with how DWR's net bond proceeds were allocated.

(Comr Lynch)

**Outcome Held (5/27/04. Possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**42**

[3431]

**A02-11-017 - Pacific Gas and Electric Company (PG&E).**

For authority, among other things, to increase revenue requirements for electric and gas service and to increase rates and charges to gas service effective on January 1, 2003. I03-01-012, A02-09-005 - Related matters. This interim decision addresses Storm and Reliability issues raised in PG&E's Test Year 2003 General Rate Case.

(Comr Peevey - ALJ Halligan)

**Outcome Held (5/27/04. Possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**43**

[3432]

**A02-11-017 - Pacific Gas and Electric Company (PG&E).**

For authority, among other things, to increase revenue requirements for electric and gas service and to increase rates and charges to gas service effective on January 1, 2003. I03-01-012, A02-09-005 - Related matters. This decision resolves issues litigated in Phase 1 of PG&E's TY 2003 General Rate Case. As part of this decision, the Commission considers, and approves, with one modification, two comprehensive settlement agreements filed by a broad coalition of Parties. This decision also addresses PG&E's proposed pension contribution, issues regarding the Diablo Canyon Independent Safety Committee, and executive compensation.

(Comr Peevey - ALJ Halligan)

**Outcome Held (5/27/04. Possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**44**

[3438]

**R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.**

This decision approves the five proposals that SDG&E presented to meet its short-term and long-term grid reliability needs. These proposals were the result of an open and competitive Request for Proposal (RFP) process that solicited bids from all qualified resources, including turn-key natural gas-fired generating units, power purchase agreements (PPA), demand response programs, and renewable resources. Out of 22 bids received, these five proposals were identified as conforming to the RFP specifications and were found to be the least cost/best fit choices for meeting the utility's need to have a diversified portfolio of resources to meet its customers grid reliability needs, are consistent with SDG&E's long-term resource plan, benefit consumers, and are in the public interest. The proposals include a demand response program from Comverge, a renewable resource contract with Envirepel, and contracts for three gas-fired facilities, Ramco, Palomar, and Otay Mesa. Ramco is a turn-key combustine turbine intermediate unit, Palomar is a turn-key 500/555 MW combined-cycle power plant, and Otay Mesa is a 10-year PPA for a 485/573 MW combined cycle facility. This proceeding is closed.

(Comr Peevey - ALJ Brown)

**Outcome Held (5/27/04. Possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**44a**

[3440]

**ALTERNATE TO ITEM 3438**

Like the ALJ's Proposed Decision (PD), this Alternate also approves the five proposals that SDG&E presented to meet its short-term and long-term grid reliability needs. However, unlike the ALJ's PD, this Alternate approves certain ratemaking mechanisms that SDG&E proposed, specifically, a higher return on equity for generation assets that will be utility-owned, and a debt equivalency premium in connection with the proposed Otay Mesa long-term power purchase agreement (PPA) to compensate SDG&E for the negative impact on its credit profile that will result from entering into the PPA.

(Comr Peevey)

**Outcome Held (5/27/04. Possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**45**

[3442]

**A00-06-010 - Pacific Gas and Electric Company.**

This decision grants Section 851 approval on a prospective basis for 78 agreements and denies Section 851 approval for 27 agreements that have terminated or relate to property that has been sold. This proceeding is closed.

(Comr Wood - ALJ Kenney)

**Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**Energy Resolutions and Written Reports****46**

[3408]

**Res E-3866**

Certification to the Securities and Exchange Commission (SEC) that the Commission has the resources and authority to safeguard the interests of California customers of PacifiCorp, a utility subsidiary of ScottishPower plc, a holding company registered with the SEC under the Public Utilities Holding Company Act of 1935, as amended.

**Outcome Held (5/27/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

## Telecommunication Orders

47

[2513]

### **R00-02-004 - Order Instituting Rulemaking on the Commission's own motion to establish consumer rights and consumer protection rules applicable to all telecommunications utilities.**

The Commission adopts General Order No. ###, Rules Governing Telecommunications Consumer Protection, applicable to all Commission-regulated telecommunications utilities. G.O. ### sets forth: in Part 1, a telecommunications consumers' Bill of Rights; in Part 2, a set of Consumer Protection Rules all carriers must follow to protect those rights; in Part 3, Rules Governing Billing for Non-communications-Related Charges; and in Part 4, Rules Governing Slamming Complaints. The proceeding remains open to consider changes to the current limitation of liability provisions, rules protecting non-English speaking consumers, and a telecommunications consumer education program. (Comr Wood - ALJ McVicar)

Agenda 3119, Item 40 9/18/2003 (Staff);

Agenda 3120, Item 45 10/2/2003 (Brown);

Agenda 3122, Item 38 10/30/2003 (Brown);

Agenda 3124, Item 53 12/4/2003 (Wood);

Agenda 3125, Item 69 12/18/2003 (Peevey);

Agenda 3127, Item 32 1/22/2004 (Staff);

Agenda 3128, Item 40 2/11/2004 (Staff);

Agenda 3131, Item 38 4/1/2004 (Staff);

Agenda 3132, Item 47 4/22/2004 (Staff)

### **Outcome Held (5/27/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

48

[2976]

### **A01-02-012 - Verizon California Inc. (Verizon).**

This decision grants Verizon authority to re-categorize its Business Billable Repair Service (BRS), Business Inside Wire Maintenance Service Plan (IWMP), and CentraNet IWMP from Category II to Category III service offerings. Verizon is also authorized to increase the first weekday hour or less of its Business BRS ceiling rate from \$85 to \$100. The decision denies Verizon authority to re-categorize its Residential BRS, Residential IWMP, and Landlord IWMP from Category II to Category III. This proceeding is closed.

(Comr Wood - ALJ Galvin)

Agenda 3125, Item 72 12/18/2003 (Brown);

Agenda 3128, Item 42 2/11/2004 (Brown);

Agenda 3130, Item 46 3/16/2004 (Lynch);

Agenda 3131, Item 40 4/1/2004 (Wood);

Agenda 3132, Item 48 4/22/2004 (Lynch)

### **Outcome Held (5/27/04. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**48a**

[3293]

**ALTERNATE TO ITEM 2976**

This decision grants Verizon authority to re-categorize its Residential, Landlord, Business, and CentraNet Inside Wire Maintenance Plans (IWMP), and Residential and Business Billable Repair Services (BRS) from Category II to Category III service offerings. Verizon is also authorized to increase its Residential and Landlord IWMP rates from \$0.95 to \$1.75, with rates capped at \$2.99 following the passage of one year, and Business and CentraNet IWMP from \$1.75 to \$2.50 and to increase the first weekday hour or less of its Business BRS ceiling rate from \$85 to \$100. The decision requires a revision to Tariff A-9, sheet 19 such that when an SNI has not been installed Verizon "will not charge for a premise visit nor for identifying the location (inside wire, network or CPE) of a problem." The decision requires disclosures of and notices informing subscribers of their options, and denies Verizon Advice Letter 9167. This proceeding is closed.

(Comr Brown)

Agenda 3130, Item 46a 3/16/2004 (Lynch);

Agenda 3131, Item 40a 4/1/2004 (Wood);

Agenda 3132, Item 48a 4/22/2004 (Lynch)

**Outcome Held (5/27/04. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**49**

[3168]

**R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into competition for local exchange service.**

I95-04-044 - Related matters. This decision adopts wholesale prices for Pacific Bell Telephone Company dba SBC California's Directory Assistance Listing Information Service, pursuant to D02-02-025.

(Comr Peevey - ALJ Pulsifer)

Agenda 3128, Item 44 2/11/2004 (Wood);

Agenda 3129, Item 33 2/26/2004 (Peevey);

Agenda 3131, Item 42 4/1/2004 (Peevey);

Agenda 3132, Item 50 4/22/2004 (Kennedy)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



**49a**

[3454]

**ALTERNATE TO ITEM 3168**

I95-04-044 - Related matters. This alternate decision adopts wholesale prices for Pacific Bell Telephone Company dba SBC California's Directory Assistance Listing Information Service, pursuant to D02-02-025. This alternate differs from ALJ decision in that it does not accept each of the joint parties' modifications.

(Comr Peevey)

Agenda 3132, Item 50a 4/22/2004 (Kennedy)

**Outcome Signed**

D04-05-020

Yes: (Kennedy, Peevey, Wood)

No: (Brown, Lynch)

Abstain: (none)

Absent: (none)

**50**

[3199]

**I02-06-003 - Investigation on the Commission's own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless and related entities (collectively)**

This modified decision finds that Cingular's corporate practice and policy from January 2000 to April 31, 2002 violated (1) Pub.Util.Code §451 and D95-04-028 because it allowed no trial of its wireless service and prohibited early termination of wireless service contracts unless the customer paid an early termination fee of \$150 or more, even though testing wireless service by using the phone is the best way for a customer to ascertain whether the service meets his or her needs, and (2) violated §§451, 702 and 2896 and D95-04-028 because it failed to disclose known network problems during 2001 and, in spite of these problems, continued to prohibit refunds/returns and require early termination fees for early cancellation of wireless service contracts. Decision orders a penalty of \$12,140,000 and requires reparations to customers. This modified decision addresses the issues raised by the Commission's Consumer Protection and Safety Division, Utility Consumers Action Network, and Cingular in their appeals to the Presiding Officer's Decision filed October 9, 2003. This proceeding is closed.

(Comr Wood - ALJ Vieth)

Agenda 3128, Item 48 2/11/2004 (Kennedy);

Agenda 3131, Item 45 4/1/2004 (Kennedy)

**Outcome Held (5/27/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**51**

[3236]

**A02-07-050 - SBC Pacific Bell Telephone Company (SBC California).**

This decision grants SBC California's motion to dismiss this application and closes the proceeding. This proceeding is closed with prejudice for a period of two years, during which time SBC California may not seek recategorization of its directory assistance services.

(Comr Lynch - ALJ Malcolm)

Agenda 3130, Item 50 3/16/2004 (Staff);

Agenda 3131, Item 46 4/1/2004 (Brown);

Agenda 3132, Item 51 4/22/2004 (Kennedy)

**Outcome Held (6/9/04. For alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**52**

[3424]

**I02-05-001 - Investigation into NOS COMMUNICATIONS, INC., dba International Plus, 011 Communications, Internet Business Association, I-Vantage Network Solutions; AFFINITY NETWORK, INC., dba QuantumLink Communications and HorizonOne Communications; and corporate officers of NOS and ANI, to determine whether they have violated the laws, rules, and regulations governing manner in which California subscribers are solicited, switched from one presubscribed carrier to another, and billed for telephone services.**

A01-12-013 - Related matters. This decision approves with modifications the settlement agreement filed on December 9, 2003 by respondents and the Consumer Protection and Safety Division. Under the settlement, respondents will pay the Commission \$2.95 million over a 24 month period, and 1400 eligible customers will receive restitution payments. Respondents have also agreed to abide by a marketing and sales compliance program included in a recent FCC consent decree. I02-05-001 is closed.

(Comr Brown - ALJ McKenzie)

**Outcome Held (5/27/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**53**

[3488]

**A98-12-005 - GTE Corporation and Bell Atlantic Corporation.**

For transfer of control of GTE's California utility subsidiaries to Bell Atlantic, which will occur indirectly as a result of GTE's merger with Bell Atlantic. This decision grants the Petition to Modify, in part, and increases the Commission's prior award to Greenlining Institute and Latino Issues Forum by \$106,144.10.

(Comr Kennedy - ALJ Mattson)

**Outcome Signed**

D04-05-021

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**54**

[3493]

**R93-04-003 - Rulemaking on the Commission's own motion to govern open access to bottleneck services and establish a framework for network architecture development of dominant carrier networks.**

I93-04-002 - Related matters. This decision grants Covad Communications Company's (Covad) motion to vacate D04-03-044, the Commission's order staying D03-01-077, the Interim Opinion Establishing a Permanent Rate for the High-Frequency Portion of the Loop (the HFPL Order) on the grounds that the changed federal timeline for addressing the line sharing issues have made the stay of the HFPL Order neither short term nor temporary. D04-03-044 is vacated.

(Comr Wood - ALJ Reed)

**Outcome Signed**

D04-05-022

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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**Telecommunication Resolutions and Reports****55**

[3108]

**Res T-16818 - SBC California (SBC).**

This resolution dismisses without prejudice SBC's request to waive the installation service charge for eligible residence and business customers returning from facilities-based carrier service. (Advice Letters 24278 and 24279, filed October 10, 2003)

Agenda 3127, Item 37 1/22/2004 (Staff);

Agenda 3128, Item 49 2/11/2004 (Kennedy);

Agenda 3129, Item 34 2/26/2004 (Staff);

Agenda 3130, Item 51 3/16/2004 (Peevey);

Agenda 3131, Item 47 4/1/2004 (Peevey)

**Outcome Held (5/27/04. For alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**56**

[3261]

**Res T-16763**

This resolution streamlines and clarifies filing rules for claiming carriers. Imposes deadlines for California Teleconnect Fund customers to provide certain information to providing carriers.

Agenda 3130, Item 52 3/16/2004 (Staff);

Agenda 3131, Item 48 4/1/2004 (Staff);

Agenda 3132, Item 52 4/22/2004 (Lynch)

**Outcome Held (5/27/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**Water/Sewer Orders****57**

[3099]

**A02-07-021 - Southern California Water Company (SCWC).**

In Interim Decision 03-05-001 on May 8, 2003, the Commission approved a settlement between the City of Santa Monica (City) and SCWC that conveyed SCWC water rights to the City and relieved SCWC from its participation in a number of pending lawsuits related to the Charnock Groundwater Basin. The issue of ratemaking treatment of the settlement proceeds and the issue of contamination payments made to SCWC by oil companies were deferred to this phase of the proceeding. This decision resolves those issues. The application is closed.

(Comr Kennedy - ALJ Walker)

Agenda 3127, Item 42 1/22/2004 (Lynch);

Agenda 3129, Item 37 2/26/2004 (Lynch);

Agenda 3131, Item 50 4/1/2004 (Wood);

Agenda 3132, Item 54 4/22/2004 (Staff)

**Outcome Held (5/27/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**57a**

[3459]

**ALTERNATE TO ITEM 3099**

This Alternate Decision directs the Southern California Water Company to refund to ratepayers the net proceeds received from the City for SCWC's Charnock Basin cause of action, to remove relevant Charnock Basin assets from rate base in its current general rate case for the region, Application (A.) 03-10-006, to transfer net proceeds received from Potentially Responsible Parties (PRPs) with respect to the Charnock Basin contamination from Account 704 (purchased water) to Account 704.02 (purchased water balancing account) for later refund to ratepayers of the excess shown in Account 704.02, and to book future net proceeds to be received from PRPs with respect to the Charnock Basin contamination to Account 704.02 for later refund to ratepayers of the excess shown in Account 704.02.

(Comr Lynch)

Agenda 3132, Item 54a 4/22/2004 (Staff)

**Outcome Held (5/27/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**58**

[3254]

**A02-09-030 - California-American Water Company (CalAm).**

A02-09-031, A02-09-032, A02-09-033 - Related matters. This decision grants CalAm test year 2003 and test year 2004 rate increases of \$237,400 (32.3%) and \$88,900 (9.1%) in Felton district, \$319,700 (20.6%) and \$70,700 (3.8%) in Larkfield district, and \$5,217,200 (32.2%) and \$1,104,000 (5.1%) in Sacramento district. The 2004 increases are deferred to 2005 in accordance with an earlier Commission order. CalAm's requests to combine districts are denied. CalAm's request to withdraw Application 02-09-033, its Montara district general rate case, is granted. This proceeding is closed.

(Comr Wood - ALJ McVicar)

Agenda 3130, Item 55 3/16/2004 (Lynch);

Agenda 3131, Item 51 4/1/2004 (Wood);

Agenda 3132, Item 56 4/22/2004 (Kennedy)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**58a**

[3507]

**ALTERNATE TO ITEM 3254**

This alternate draft decisions departs from the ALJ Proposed Decision in two ways: 1) It stays the adopted rate increases for Felton but orders the creation of a balancing account to address shortfalls; 2) It orders CalAm to file a new application for the consolidation of water districts that addresses the issues identified in this decision.

(Comr Kennedy)

**Outcome Signed**

D04-05-023

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**59**

[3348]

**A02-11-044 - San Gabriel Valley Water Company.**

This decision authorizes San Gabriel Water Company (Fontana Division) revenue increases of \$7.6 million or 23.7% for 2004, \$1.7 million or 4.6% for 2005, and \$1.7 million or 4.2% for 2006. The average residential customer's bill for 23 hundred cubic feet will increase from \$37.11 to \$46.24 per month. This proceeding is closed.

(Comr Peevey - ALJ Patrick)

Agenda 3132, Item 57 4/22/2004 (Brown)

**Outcome Held (5/27/04. Possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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## Transportation/Rail Safety Resolutions and Reports

**60**

**Res TL-19040**

[3360]

This resolution revises maximum rate tariff 4 (Max 4) to implement provisions of Assembly Bill 845.  
Agenda 3132, Item 60 4/22/2004 (Staff)

**Outcome Held (5/27/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



**Other Utility Resolutions and Reports****61**

[3354]

**Res ALJ 184**

This resolution adopts an annual process for setting and updating hourly rates for use by intervenors in seeking compensation for substantially contributing to a Commission decision, as provided in the statutory intervenor funding program. The hourly rates that the Commission establishes through this process will govern intervenors and their representatives who have recently participated in Commission proceedings, and will provide guidance to other intervenors and representatives.

Agenda 3132, Item 61 4/22/2004 (Staff)

**Outcome Held (5/27/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**Legal Division Matters****62**

[3482]

**WC Docket No. 04-36 (FCC)**

In the matter of IP-Enabled Services, WC Docket No. 04-36 (FCC). The Commission will file comments in the FCC's rulemaking proceeding regarding IP-enabled services.

**Outcome Approved-Staff Recommendation (Comr. Kennedy will file a dissent.)**

Yes: (Brown, Lynch, Peevey, Wood)

No: (Kennedy)

Abstain: (none)

Absent: (none)

**63**

[3496]

**WC Docket No. 04-29**

Intervention in Federal Communications Commission Proceeding of a Rulemaking Nature. Petition of SBC Communications Inc. for Forbearance. SBC's Petition requests the FCC to 'forebear from applying Title II common carrier regulation to IP platform services.' SBC proposes to include within the definition of 'IP platform services' both: (1) 'IP networks and their associated capabilities and functionalities,' and (2) 'services and application provided over an IP platform.'

**Outcome Approved-Staff Recommendation (Comr. Kennedy reserves the right to file a dissent.)**

Yes: (Brown, Lynch, Peevey, Wood)

No: (Kennedy)

Abstain: (none)

Absent: (none)

**64**

[3497]

**WC Docket No. 04-36**

Intervention in Federal Communications Commission Proceeding of a Rulemaking Nature. Petition of SBC Communications Inc. for A Declaratory Ruling. SBC's Petition requests that the FCC declare, among other things, that its IP-based network facilities and services are subject only to federal regulation, and not subject to regulation as telecommunications services under the Telecommunications Act.

**Outcome Approved-Staff Recommendation (Comr. Kennedy reserves the right to file a dissent.)**

Yes: (Brown, Lynch, Peevey, Wood)

No: (Kennedy)

Abstain: (none)

Absent: (none)